



TEXAS DEPARTMENT OF LICENSING AND REGULATION

Enforcement Division

P.O. Box 12157 • Austin, Texas 78711 • (512) 539-5600 • (800) 803-9202 • fax (512) 539-5698
Web site: www.tdlr.texas.gov

February 8, 2018

JAMES TWOMBLY
TWOMBLY LAW PC
3307 NORTHLAND DRIVE STE 315
AUSTIN TX 78731 4943

Subject: Stacy S. Lewis (Respondent); Case Number: MID20170006250

Dear Mr. Twombly:

The Texas Department of Licensing and Regulation (Department) has concluded its investigation of the above-referenced case number. Based upon the evidence obtained in the investigation, there is not sufficient evidence to establish a violation of the Texas Midwifery Law or Rules. The allegations involved failing to obtain required informed consent disclosure(s), patient medical history, urine sample and bloodwork prior to sonogram analysis with the initial consultation on February 13, 2014, and the second final consultation on March 18, 2014. The complaint alleges the first sonogram on February 13, 2014, gave the approximate gestational age of 17 weeks, and the second sonogram on March 18, 2014, was "grossly inadequate" with an approximate gestational age of "26 weeks".

The investigation revealed through medical records, insurance records, statements of witnesses as well as the complainant and respondent that the patient's medical history, vital signs, urine sample and fundal height measurement of 17 cm was taken and documented during the initial consultation. Medical records reflect discussion of the estimated costs for future OB laboratory tests, urine cultures and prenatal GBS as well as the patient being provided a contract for services to be approved and signed, educational materials on pregnancy and childbirth, and disclosures to be executed including, but not limited to, informed consent forms.

The second and final consultation records reflect a fundal measurement of 26 cm, which was documented to have been re-measured at 23 cm after the patient's bladder was emptied. The sonogram reflected a gestational age of 22 weeks, according to the medical records provided by the Respondent, within the normal gestational limits. The records reflect that no documentation was received from the patient including, but not limited to, the informed consent disclosure or contract so Respondent advised the patient of the inability to continue treatment without full understanding and agreement with the documents previously provided. Records reflect the patient agreed and understood to provide the documents, but never returned.

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TEX. OCC. CODE § 203.351 states: "Informed Choice and Disclosure Requirements. (a) A midwife shall disclose in oral and written form to a prospective client the limitations of the skills and practices of a midwife.

(b) The midwifery board shall prescribe the form of the informed choice and disclosure statement required to be used by a midwife under this chapter. The form must include:

- (1) statistics of the midwife's experience as a midwife;
- (2) the date the midwife's license expires;
- (3) the date the midwife's cardiopulmonary resuscitation certification expires;
- (4) the midwife's compliance with continuing education requirements;
- (5) a description of medical backup arrangements; and
- (6) the legal responsibilities of a midwife, including statements concerning newborn blood screening, ophthalmia neonatorum prevention, and prohibited acts under Sections 203.401-203.403.

(c) The informed choice statement must include a statement that state law requires a newborn child to be tested for certain heritable diseases and hypothyroidism. The midwife shall disclose to a client whether the midwife is approved to collect blood specimens to be used to perform the tests. If the midwife is not approved to collect the blood specimens, the disclosure must inform the client of the midwife's duty to refer the client to an appropriate health care facility or physician for the collection of the specimens."

TEX. OCC. CODE § 203.352 states: "Prenatal and Certain Medical Care Encouraged. A midwife shall encourage a client to seek:

- (1) prenatal care; and
- (2) medical care through consultation or referral, as specified by midwifery board rules, if the midwife determines that the pregnancy, labor, delivery, postpartum period, or newborn period of a woman or newborn may not be classified as normal for purposes of this chapter."

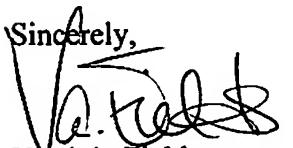
22 TEX. ADMIN. CODE § 831.51(a), (b) and (e) state: "Standards for the Practice of Midwifery in Texas (a) Purpose. To establish standards for safe midwifery care[.]; (b) Midwifery is the practice by a midwife of giving the necessary supervision, care, and advice to a woman during normal pregnancy, labor and the postpartum period; conducting a normal delivery of a child; and providing normal newborn care[.]; (e) Midwifery care supports individual rights and self-determination within the boundaries of safety. Using reasonable skill and knowledge, the midwife shall:

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- (1) provide clients with a description of the scope of midwifery services and information regarding the client's rights and responsibilities in accordance with §203.351 of the Texas Midwifery Act;
- (2) assess the client on an ongoing basis for any factors which might preclude a client from admission into or continuing in midwifery care;
- (3) provide clients with information about other providers and services when requested or when the care required is not within the scope of practice of midwifery; and
- (4) practice in accordance with the knowledge, clinical skills, and judgments described in the Midwives Alliance of North America (MANA) Core Competencies for Basic Midwifery Practice, adopted August 4, 2011 within the bounds of the midwifery scope of practice as defined by the Act; and the Texas Midwifery Board Standards for the Practice of Midwifery in Texas.

22 TEX. ADMIN. CODE § 831.60(a) states: "Prenatal Care (a) Using reasonable skill and knowledge, the midwife shall collect, assess, and document maternal care data through a detailed obstetric, gynecologic, medical, social, and family history and a complete prenatal physical exam and appropriate laboratory testing; develop and implement a plan of care; thereafter evaluate the client's condition on an ongoing basis; and modify the plan of care as necessary. Health education/counseling shall be provided by the midwife as appropriate."

At any hearing in which the Department seeks a sanction or penalty against a licensee, the burden is on the Department to prove that the licensee committed a violation of the law or rules in place at the time of the alleged violation. The evidence in this instance is insufficient to establish a violation was committed. Therefore, I am closing this case with no further action. Any questions regarding this case should be addressed to Jasmine Sprehe, Legal Assistant, Enforcement Division at (512) 539-5695 or e-mail Jasmine.Sprehe@tdlr.texas.gov.

Sincerely,

Virginia Fields
Prosecutor
Enforcement Division

cc: Complainant

Lindsay Tenorio, Department Investigator



Professional Licensing and Certification Unit
COMPLAINT FORM

RECEIVED

JUN 04 2014

PLCU INV / QA Group

Midwifery Board

NAME OF REGULATORY BOARD/PROGRAM

1-800-942-5540 (Complaint Hotline)

Please call if you are unsure to which Board/Program you should direct your complaint.

COMPLAINANT INFORMATION (PERSON REPORTING)

1056-14-0025

Name: _____

Address:

Street Address

City

State

Zip

Home Phone: [REDACTED] Work Phone:

LICENSEE INFORMATION (ALLEGED VIOLATOR)

Name: Stacy Lewis

Address: 18211 Bulverde Rd
Street Address San Antonio TX 78259.....
City State Zip

Home Phone: _____ Work Phone: 210-296-8661

CLIENT-PATIENT INFORMATION (IF APPLICABLE)

Name:

Address: _____

Home Phone: _____ Work Phone: _____

Complainant's Relationship to Client:

Is the client a minor? Yes No If yes, give age:

SUPPORTING DOCUMENTATION

Attach documentation such as canceled checks or receipts, charts, notes, records; also, names, addresses, and phone numbers of others who may have information about the alleged violations, etc.

DETAILS OF COMPLAINT

Dates of Client-Patient/Licensee Relationship: From: 2/13/2014 To: 4/15/2014

Dates of Violations: 2/13/14; 3/8/14.....

Details of Complaint: I contacted Stacy Lewis and Jessica Arno for prenatal care for my fourth child. I was receiving prenatal care late in my pregnancy due to insurance issues and was unsure of my EDD. I provided Stacy and Jessica with the most information I could to determine and EDD. Stacy performed an ultrasound on 2/13/14 and determined that I was approx. 18 weeks gestation. At my initial visit she did not request any routine blood work, did not perform a urine sample, did not take any medical history or have me fill out any paperwork. She said she would get medical history, etc. from me at my next appointment. On my appointment on 3/8/14 she struggled to find the proper fundal height. She and Jessica went back and forth about the information I provided her with previously and declared that she was "fooled" by the ultrasound and I was actually 26 weeks gestation at that point. She checked blood pressure, listened to the baby's heartbeat using a Doppler (from the umbilical cord because "this little guy just doesn't want to cooperate!") and sent me on my way. When I inquired about lab work or a full body scan on the baby, I was told "that's unnecessary- you know your body!"

I reached out to another midwife after that visit, deciding that I was not comfortable with Stacy's practice. Since seeing this midwife (Robin Rabenschlag) I have been sent for blood work and ultrasound. The ultrasound determined that the original gestational age of 18 weeks on 2/13/14 was correct and the "revised" gestational age of 26 weeks on 3/8/14 was grossly inaccurate. Additionally, the findings on the blood work revealed that I am severely anemic, have a slight thyroid concern and am bordering on being concerning for gestational diabetes utilizing the 1 hour glucose test (136 mg/dL).

Had I continued care with Stacy Lewis I could have potentially found myself in a very serious situation, having a homebirth with a potentially preterm baby, possibly facing serious medical concerns myself as a result of these findings on blood work. I kindly request that Miss Lewis and Miss Arno be investigated on their routine practice to ensure that the safety of other women and babies is not put at jeopardy.

Jessica Arno: (218) 839-3599

Robin Rabenschlag: (210) 744-7734

State of Texas County of Blk

[REDACTED]
Signature of Complainant

Mail your completed packet to:

Investigations
PO Box 141369
Austin, Texas 78714-1369

DSHS Publications # F75-11360 Rev. 3/05
Professional Licensing and Certification Unit - Texas Department of State Health Services

SAN ANTONIO TX 782
P.O. BOX 4944 LOS ANGELES
02 APR 2014 PM 2 L

Investigations

PO BOX 141300
AKRON, TX 78714-1300



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